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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,539	01/21/2000	Helen Viazmensky	DEXNON/096/US	5964
2543	7590	04/13/2004	EXAMINER	
ALIX YALE & RISTAS LLP 750 MAIN STREET SUITE 1400 HARTFORD, CT 06103			SPERTY, ARDEN B	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/489,539	Applicant(s) VIAZMENSKY ET AL.	
	Examiner Arden B. Sperty	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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NON-FINAL OFFICE ACTION

1. Claim 1-9, 11-18 and 20-22 are pending.

Response to Arguments

2. Applicant's arguments, filed February 6, 2004, with respect to the rejections of claims 1-9, 11-18 and 20-22 under 35 USC 102 and 103 have been fully considered and are persuasive.

Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made.

Claim Objections

3. Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are internally inconsistent. The independent claims from which claims 9 and 21 depend (claims 1 and 16) each require a single layer, however claims 9 and 21 require a second phase. "Phase" is understood to be synonymous with "layer." This interpretation is supported by Applicant's response dated April 4, 2002, see the bottom half of page 15, wherein Applicant argues that the "phases" disclosed by USPN 5,601,716 constitute multiple layers and are consequently different from the claimed invention. Therefore, it is unclear how the multiple "phases" of claims 9 and 21 can still satisfy the single-layer requirement of claims 1 and 16 when Applicant has already argued that such "phases" are different from the claimed single layer. The claims are

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examined in accordance with the interpretation supported by Applicant's response dated April 4, 2002, and it is recommended that the claims be canceled.

6. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The metes and bounds of the claim are unascertainable as it is not clear what the dry crimp strength is of the fibrous non-woven non-heat seal porous web material lacking the synthetic material against which the claimed web is compared.

7. The terms "acceptable" and "unacceptable" in claim 22 is a term which renders the claim indefinite. The terms "acceptable" and "unacceptable" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3, 5-8 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,292,581 to Viazmensky et al.

Regarding claims 1-2, 5, 12-17 and 20, the reference teaches a nonwoven fibrous web, which is a single layer when produced by the method of column 2, line 62- column 3, line 6. The fibrous web comprises 5-30% by weight of synthetic material (col 3, lines 54-58) with natural fibers comprising the remainder of the web material (col 3, lines 7-16). The properties of claims 12-14 are met since the reference teaches the same web made by the same process, therefore exhibiting the same claimed properties.

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Regarding claims 3 and 11, the natural fibers include the claimed materials (col 3, lines 10-16 and line 66- col 4, line 2).

Regarding claim 6, the reference teaches cellulosic synthetic materials (col 3, lines 22-27).

Regarding claims 7-8, the reference teaches polyester and polypropylene (col 3, lines 17-27).

Regarding claim 15, the ultimate intended use of a product is considered for the structural implications attributed to that use. In the instant case, no structural implications are inferable from the intended use that would cause the claimed product to be distinguishable from the product of the reference. Therefore, the limitations of the claim are met by the teachings of the reference.

Regarding claim 16 and 20, the reference teaches the claimed method at column 2, line 62- column 3, line 6.

Regarding claim 17, the fibrous web comprises 5-30% by weight of synthetic material (col 3, lines 54-58).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,292,581 as applied to claims 1 and 16 above.

While the reference teaches the limitations of claims 1, 16, and claim 22 (with exception of the basis weight of claim 22), the reference is silent with respect to the basis weights of claims 4, 8 and 22. Although the reference teaches a basis weight in excess of 19 g/m² (col 5, lines 14-16), it would have been obvious to one of ordinary skill in the art to modify the basis weight according to

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the ultimate intended use. The intended use of the reference, as a wet wiping cloth, requires the disclosed basis weight, however, absent a showing of criticality with respect to the claimed values, it would have been obvious to one of ordinary skill in the art to adjust the basis weight as needed according to the ultimate intended use of the fibrous web. Basis weight and the adjustment thereof is notoriously well-known in the art; absent a showing of unexpected results with the claimed values, no patentable distinction is seen between the claimed invention and that of the prior art.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 5,601,716 to Heinrich relates to formation of fibrous nonwoven webs comprising multiple "phases" or layers.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arden B. Sperty whose telephone number is (571)272-1543. The examiner can normally be reached on M-Th, 08:00-16:00.

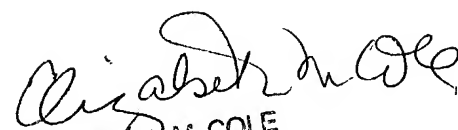
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571)272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arden B. Sperty
Examiner
Art Unit 1771

06 April 04


ELIZABETH M. COLE
PRIMARY EXAMINER